

REFERENCE TITLE: stored water; certificates; impact; accounting

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2549

Introduced by
Representative Griffin

AN ACT

AMENDING SECTIONS 45-468, 45-576 AND 45-576.08, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-576.10; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 1, SECTION 9; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 1, SECTION 10; RELATING TO WATERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-468, Arizona Revised Statutes, is amended to
3 read:
4 45-468. Accounting of water by persons delivering a
5 combination of surface water and groundwater for
6 irrigation uses
7 A. A person delivering a combination of surface water or effluent,
8 or both, and groundwater for irrigation uses shall ~~prior to~~ BEFORE the
9 beginning of each accounting period estimate the amount of groundwater
10 that will be withdrawn and delivered during the next accounting period and
11 shall make ~~such~~ THE estimate available to the director. The estimate may
12 be modified from time to time as conditions warrant.
13 B. Within ninety days following the end of each accounting period a
14 person who delivers a combination of surface water or effluent, or both,
15 and groundwater for uses by cities, towns, private water companies,
16 industries, farms or other users shall provide the director with an
17 accounting for water during the past accounting period ~~which~~ THAT shows
18 the following:
19 1. All surface water provided to each class of user and each ~~farm~~
20 USER AUTHORIZED TO WITHDRAW GROUNDWATER.
21 2. All groundwater provided to each class of user and each ~~farm~~
22 USER AUTHORIZED TO WITHDRAW GROUNDWATER.
23 3. All effluent provided to each class of user and each ~~farm~~ USER
24 AUTHORIZED TO WITHDRAW GROUNDWATER.
25 C. If a WATER PROVIDER OR ANY OTHER person delivers water to a user
26 through a delivery system that commingles groundwater with surface water
27 or effluent, or both, the amount of groundwater charged to the user
28 pursuant to the accounting in subsection B OF THIS SECTION shall be
29 computed as follows:
30 1. Determine the total amount of water delivered to the user
31 through the system during the accounting period.
32 2. Determine the amount of surface water and effluent that would
33 have been delivered to the user through the system during the accounting
34 period if no groundwater had been delivered through the system.
35 3. Subtract the amount determined pursuant to paragraph 2 from the
36 amount determined pursuant to paragraph 1.
37 D. THIS SECTION DOES NOT CHANGE THE APPLICABILITY, IF ANY, OF
38 GROUNDWATER CONSERVATION RULES TO WATER SUPPLIES THAT PHYSICALLY CONTAIN
39 GROUNDWATER.

1 Sec. 2. Section 45-576, Arizona Revised Statutes, is amended to
2 read:

3 45-576. Certificate of assured water supply; designated
4 cities, towns and private water companies;
5 exemptions; definition

6 A. Except as provided in subsections G and J of this section, a
7 person who proposes to offer subdivided lands, as defined in section
8 32-2101, for sale or lease in an active management area shall apply for
9 and obtain a certificate of assured water supply from the director ~~prior~~
10 ~~to~~ BEFORE presenting the plat for approval to the city, town or county in
11 which the land is located, where such is required, and ~~prior to~~ BEFORE
12 filing with the state real estate commissioner a notice of intention to
13 offer such lands for sale or lease, pursuant to section 32-2181, unless
14 the subdivider has obtained a written commitment of water service for the
15 subdivision from a city, town or private water company designated as
16 having an assured water supply pursuant to this section.

17 B. Except as provided in subsections G and J of this section, a
18 city, town or county may approve a subdivision plat only if the subdivider
19 has obtained a certificate of assured water supply from the director or
20 the subdivider has obtained a written commitment of water service for the
21 subdivision from a city, town or private water company designated as
22 having an assured water supply pursuant to this section. The city, town
23 or county shall note on the face of the approved plat that a certificate
24 of assured water supply has been submitted with the plat or that the
25 subdivider has obtained a written commitment of water service for the
26 proposed subdivision from a city, town or private water company designated
27 as having an assured water supply pursuant to this section.

28 C. Except as provided in subsections G and J of this section, the
29 state real estate commissioner may issue a public report authorizing the
30 sale or lease of subdivided lands only on compliance with either of the
31 following:

32 1. The subdivider, owner or agent has paid any activation fee
33 required under section 48-3772, subsection A, paragraph 7 and any
34 replenishment reserve fee required under section 48-3774.01, subsection A,
35 paragraph 2 and has obtained a certificate of assured water supply from
36 the director.

37 2. The subdivider has obtained a written commitment of water
38 service for the lands from a city, town or private water company
39 designated as having an assured water supply pursuant to this section and
40 the subdivider, owner or agent has paid any activation fee required under
41 section 48-3772, subsection A, paragraph 7.

42 D. The director shall designate private water companies in active
43 management areas that have an assured water supply. If a city or town
44 acquires a private water company that has contracted for central Arizona

1 project water, the city or town shall assume the private water company's
2 contract for central Arizona project water.

3 E. The director shall designate cities and towns in active
4 management areas where an assured water supply exists. If a city or town
5 has entered into a contract for central Arizona project water, the city or
6 town is deemed to continue to have an assured water supply until December
7 31, 1997. Commencing on January 1, 1998, the determination that the city
8 or town has an assured water supply is subject to review by the director
9 and the director may determine that a city or town does not have an
10 assured water supply.

11 F. The director shall notify the mayors of all cities and towns in
12 active management areas and the chairmen of the boards of supervisors of
13 counties in which active management areas are located of the cities, towns
14 and private water companies designated as having an assured water supply
15 and any modification of that designation within thirty days of the
16 designation or modification. If the service area of the city, town or
17 private water company has qualified as a member service area pursuant to
18 title 48, chapter 22, article 4, the director shall also notify the
19 conservation district of the designation or modification and shall report
20 the projected average annual replenishment obligation for the member
21 service area based on the projected and committed average annual demand
22 for water within the service area during the effective term of the
23 designation or modification subject to any limitation in an agreement
24 between the conservation district and the city, town or private water
25 company. For each city, town or private water company that qualified as a
26 member service area under title 48, chapter 22 and was designated as
27 having an assured water supply before January 1, 2004, the director shall
28 report to the conservation district on or before January 1, 2005 the
29 projected average annual replenishment obligation based on the projected
30 and committed average annual demand for water within the service area
31 during the effective term of the designation subject to any limitation in
32 an agreement between the conservation district and the city, town or
33 private water company. Persons proposing to offer subdivided lands served
34 by those designated cities, towns and private water companies for sale or
35 lease are exempt from applying for and obtaining a certificate of assured
36 water supply.

37 G. This section does not apply in the case of the sale of lands for
38 developments that are subject to a mineral extraction and processing
39 permit or an industrial use permit pursuant to sections 45-514 and 45-515.

40 H. The director shall adopt rules to carry out the purposes of this
41 section. On or before January 1, 2008, the rules shall provide for a
42 reduction in water demand for an application for a designation of assured
43 water supply or a certificate of assured water supply if a gray water
44 reuse system will be installed that meets the requirements of the rules
45 adopted by the department of environmental quality for gray water systems

1 and if the application is for a certificate of assured water supply, the
2 land for which the certificate is sought must qualify as a member land in
3 a conservation district pursuant to title 48, chapter 22, article 4. For
4 the purposes of this subsection, "gray water" has the same meaning
5 prescribed in section 49-201.

6 I. If the director designates a municipal provider as having an
7 assured water supply under this section and the designation lapses or
8 otherwise terminates while the municipal provider's service area is a
9 member service area of a conservation district, the municipal provider or
10 its successor shall continue to comply with the consistency with
11 management goal requirements in the rules adopted by the director under
12 subsection H of this section as if the designation was still in effect
13 with respect to the municipal provider's designation uses. When
14 determining compliance by the municipal provider or its successor with the
15 consistency with management goal requirements in the rules, the director
16 shall consider only water delivered by the municipal provider or its
17 successor to the municipal provider's designation uses. A person is the
18 successor of a municipal provider if the person commences water service to
19 uses that were previously designation uses of the municipal provider. Any
20 groundwater delivered by the municipal provider or its successor to the
21 municipal provider's designation uses in excess of the amount allowed
22 under the consistency with management goal requirements in the rules shall
23 be considered excess groundwater for purposes of title 48, chapter 22.
24 For the purposes of this subsection, "designation uses" means all water
25 uses served by a municipal provider on the date the municipal provider's
26 designation of assured water supply lapses or otherwise terminates and all
27 recorded lots within the municipal provider's service area that were not
28 being served by the municipal provider on that date but that received
29 final plat approval from a city, town or county on or before that date.
30 Designation uses do not include industrial uses served by an irrigation
31 district under section 45-497.

32 J. Subsections A, B and C of this section do not apply to a person
33 who proposes to offer subdivided land for sale or lease in an active
34 management area if all the following apply:

35 1. The director issued a certificate of assured water supply for
36 the land to a previous owner of the land and the certificate was
37 classified as a type A certificate under rules adopted by the director
38 pursuant to subsection H of this section.

39 2. The director has not revoked the certificate of assured water
40 supply described in paragraph 1 of this subsection, and proceedings to
41 revoke the certificate are not pending before the department or a court.
42 The department shall post on its website a list of all certificates of
43 assured water supply that have been revoked or for which proceedings are
44 pending before the department or a court.

1 3. The plat submitted to the department in the application for the
2 certificate of assured water supply described in paragraph 1 of this
3 subsection has not changed.

4 4. Water service is currently available to each lot within the
5 subdivided land and the water provider listed on the certificate of
6 assured water supply described in paragraph 1 of this subsection has not
7 changed.

8 5. The subdivided land qualifies as a member land under title 48,
9 chapter 22 and the subdivider has paid any activation fee required under
10 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
11 fee required under section 48-3774.01, subsection A, paragraph 2.

12 6. The plat is submitted for approval to a city, town or county
13 that is listed on the department's website as a qualified platting
14 authority.

15 K. Subsection J of this section does not affect the assignment of a
16 certificate of assured water supply as prescribed by section 45-579.

17 L. FOR THE PURPOSES OF DETERMINING THE PHYSICAL AVAILABILITY OF
18 GROUNDWATER TO BE WITHDRAWN THROUGH FUTURE WELLS FOR ALL ASSURED WATER
19 SUPPLY DETERMINATIONS, THE DIRECTOR SHALL ASSUME THAT:

20 1. THE SERVICE AREA OF A WATER PROVIDER THAT IS A CITY OR TOWN IS
21 COTERMINOUS WITH THE CITY OR TOWN BOUNDARIES.

22 2. THE SERVICE AREA OF A WATER PROVIDER THAT IS AN IMPROVEMENT
23 DISTRICT FORMED PURSUANT TO TITLE 48 IS COTERMINOUS WITH ITS DISTRICT
24 BOUNDARIES.

25 3. THE SERVICE AREA OF A WATER PROVIDER THAT IS A PRIVATE WATER
26 COMPANY REGULATED BY THE CORPORATION COMMISSION IS COTERMINOUS WITH ITS
27 CERTIFICATE OF CONVENIENCE AND NECESSITY BOUNDARIES.

28 ~~L.~~ M. For the purposes of this section, "assured water supply"
29 means all of the following:

30 1. Sufficient groundwater, surface water or effluent of adequate
31 quality will be continuously available to satisfy the water needs of the
32 proposed use for at least one hundred years. Beginning January 1 of the
33 calendar year following the year in which a groundwater replenishment
34 district is required to submit its preliminary plan pursuant to section
35 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
36 a member of the district, "sufficient groundwater" for the purposes of
37 this paragraph means that the proposed groundwater withdrawals that the
38 applicant will cause over a period of one hundred years will be of
39 adequate quality and will not exceed, in combination with other
40 withdrawals from land in the replenishment district, a depth to water of
41 one thousand feet or the depth of the bottom of the aquifer, whichever is
42 less. In determining depth to water for the purposes of this paragraph,
43 the director shall consider the combination of:

44 (a) The existing rate of decline.

1 (b) The proposed withdrawals.

2 (c) The expected water requirements of all recorded lots that are
3 not yet served water and that are located in the service area of a
4 municipal provider.

5 2. The projected groundwater use is consistent with the management
6 plan and achievement of the management goal for the active management
7 area.

8 3. The financial capability has been demonstrated to construct the
9 water facilities necessary to make the supply of water available for the
10 proposed use, including a delivery system and any storage facilities or
11 treatment works. The director may accept evidence of the construction
12 assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this
13 requirement.

14 Sec. 3. Section 45-576.08, Arizona Revised Statutes, is amended to
15 read:

16 45-576.08. Pinal active management area; assured water
17 supply; physical availability; definitions

18 A. All of the following apply in the Pinal active management area
19 for an application to modify a designation of assured water supply:

20 1. If the total volume of groundwater and stored water to be
21 recovered outside the area of impact of storage sought to be included in
22 the designation does not exceed the total volume of those sources of water
23 included in the previous designation minus the sum of the volume of
24 groundwater actually withdrawn and the volume of stored water recovered
25 outside the area of impact of storage by the applicant since issuance of
26 the previous designation order:

27 (a) The director shall not review the physical availability of the
28 groundwater and stored water to be recovered outside of the area of impact
29 of storage sought to be included in the designation.

30 (b) The physical availability of the groundwater and stored water
31 to be recovered outside the area of impact of storage sought to be
32 included in the designation shall not be grounds for an objection.

33 2. Paragraph 1 of this subsection shall not affect the director's
34 review of assured water supply criteria other than the physical
35 availability of groundwater and stored water to be recovered outside the
36 area of impact of storage.

37 3. Both of the following are deemed physically available for
38 purposes of an assured water supply designation:

39 (a) Stored water that is to be recovered by the applicant within
40 the area of impact of storage pursuant to existing long-term storage
41 credits pledged to the designation of assured water supply.

42 (b) Stored water that is to be recovered by the applicant within
43 the area of impact of storage either on an annual basis pursuant to
44 section 45-851.01 or as long-term storage credits to be earned in the
45 future if the water to be stored meets the physical availability

1 requirements for the water supply under rules adopted pursuant to section
2 45-576, subsection H.

3 B. For the purposes of this section:

4 1. "Area of impact of storage" ~~means any of the following:~~

5 ~~(a) Within one mile of an existing or proposed underground storage~~
6 ~~facility where the water to be recovered is or will be stored.~~

7 ~~(b) Within the district boundaries of an irrigation district that~~
8 ~~has a permit for a groundwater savings facility and where the water to be~~
9 ~~recovered is or will be stored.~~

10 ~~(c) An area not described in subdivision (a) or (b) of this~~
11 ~~paragraph that has been shown to have been positively impacted by the~~
12 ~~storage of the water to be recovered as demonstrated by a hydrologic model~~
13 ~~approved by the director~~ HAS THE SAME MEANING AS AREA OF IMPACT DEFINED IN
14 SECTION 45-802.01.

15 2. "Long-term storage credit" has the same meaning prescribed in
16 section 45-802.01.

17 3. "Stored water" has the same meaning prescribed in section
18 45-802.01.

19 Sec. 4. Title 45, chapter 2, article 9, Arizona Revised Statutes,
20 is amended by adding section 45-576.10, to read:

21 45-576.10. Certificates of assured water supply; nonlocal
22 groundwater; water from outside active
23 management area

24 FOR AN APPLICATION FOR A CERTIFICATE OF ASSURED WATER SUPPLY THAT
25 PROPOSES TO USE A WATER SUPPLY OTHER THAN GROUNDWATER WITHDRAWN FROM
26 WITHIN THE ACTIVE MANAGEMENT AREA IN WHICH THE PROPOSED DEVELOPMENT IS
27 LOCATED, ALL OF THE FOLLOWING APPLY:

28 1. THE PROPOSED SOURCE SHALL BE DEEMED CONSISTENT WITH THE GOAL OF
29 THE ACTIVE MANAGEMENT AREA.

30 2. IF THE PROPOSED SOURCE IS STORED WATER RECOVERED WITHIN THE AREA
31 OF IMPACT AS DEFINED IN SECTION 45-802.01, THE PROPOSED SOURCE SHALL BE
32 DEEMED PHYSICALLY AVAILABLE AND THE DIRECTOR SHALL NOT REVIEW THE PHYSICAL
33 AVAILABILITY OF OTHER SOURCES OF WATER SERVED BY THE MUNICIPAL PROVIDER OR
34 INCLUDED IN AN ISSUED CERTIFICATE OF ASSURED WATER SUPPLY OR DESIGNATION
35 OF ASSURED WATER SUPPLY IN THE ACTIVE MANAGEMENT AREA.

36 3. IF A MUNICIPAL PROVIDER PROPOSES TO USE A SOURCE OF WATER
37 PRESCRIBED BY THIS SECTION IN THE SAME WATER SYSTEM WITH CENTRAL ARIZONA
38 PROJECT WATER, SURFACE WATER, EFFLUENT OR GROUNDWATER, THE PROPOSED SOURCE
39 DOES NOT AFFECT THE CONTINUOUS, LEGAL AND PHYSICAL AVAILABILITY OF THE
40 PROPOSED SOURCE, WITHOUT REGARD TO THE CONTINUOUS, LEGAL AND PHYSICAL
41 AVAILABILITY OF OTHER SUPPLIES WITHIN THE SAME MUNICIPAL PROVIDER'S WATER
42 SYSTEM, INCLUDING GROUNDWATER WITHDRAWN WITHIN THE ACTIVE MANAGEMENT AREA
43 IN WHICH THE PROPOSED CERTIFICATE OF ASSURED WATER SUPPLY IS LOCATED.

1 Sec. 5. Section 45-802.01, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 1, section 9, is amended to read:

3 45-802.01. Definitions

4 Unless the context otherwise requires, the terms defined in section
5 45-402 have the same meanings in this chapter and:

6 1. "Aquifer" means a geologic formation that contains sufficient
7 saturated material to be capable of storing water and transmitting water
8 in usable quantities to a well.

9 2. "Area of impact" means, ~~as projected on the land surface, the~~
10 ~~area where the stored water has migrated or is located~~ ANY OF THE
11 FOLLOWING:

12 (a) THE AREA WITHIN ONE MILE OF AN EXISTING OR PROPOSED UNDERGROUND
13 STORAGE FACILITY WHERE THE WATER TO BE RECOVERED IS OR WILL BE STORED.

14 (b) THE AREA WITHIN ONE MILE OF THE DISTRICT BOUNDARIES OR WITHIN
15 THE DISTRICT BOUNDARIES OF AN IRRIGATION DISTRICT THAT HAS A PERMIT FOR A
16 GROUNDWATER SAVINGS FACILITY AND WHERE THE WATER TO BE RECOVERED IS OR
17 WILL BE STORED.

18 (c) ANY AREA THAT IS NOT DESCRIBED IN SUBDIVISION (a) OR (b) OF
19 THIS PARAGRAPH AND THAT HAS BEEN SHOWN TO HAVE BEEN POSITIVELY IMPACTED BY
20 THE STORAGE OF THE WATER TO BE RECOVERED AS DEMONSTRATED BY A HYDROLOGIC
21 MODEL APPROVED BY THE DIRECTOR.

22 3. "CERCLA" means the comprehensive environmental response,
23 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
24 2767; 42 United States Code sections 9601 through 9657), commonly known as
25 "superfund".

26 4. "Constructed underground storage facility" means a facility that
27 meets the requirements of section 45-811.01 and that is designed and
28 constructed to store water underground pursuant to permits issued under
29 this chapter.

30 5. "District" means a groundwater replenishment district
31 established under title 48, chapter 27.

32 6. "District member" means a member of the groundwater
33 replenishment district as provided by title 48, chapter 27.

34 7. "Electrical district" means a corporate body established
35 pursuant to title 48, chapter 12.

36 8. "Existing effluent managed underground storage facility" means a
37 managed underground storage facility that meets one of the following
38 conditions:

39 (a) The facility is operated pursuant to a storage facility permit
40 that the director issued before January 1, 2019 and that authorizes the
41 storage of effluent at the facility.

42 (b) The facility is operated pursuant to a renewed or modified
43 storage facility permit that the director issued after January 1, 2019 if
44 the facility qualified as an existing effluent managed underground storage

1 facility under subdivision (a), (c) or (d) of this paragraph at any time
2 before the renewal or modification.

3 (c) The facility is operated pursuant to a permit that the director
4 issued after January 1, 2019 and that authorizes the storage of effluent
5 at a location where the permit holder was authorized to store effluent
6 pursuant to a storage facility permit that the director issued before
7 January 1, 2019.

8 (d) The facility is operated pursuant to a permit that the director
9 issued after January 1, 2019 and that authorizes the storage of effluent
10 at the facility, and the application to operate the facility was on file
11 with the director as of January 1, 2019.

12 9. "Groundwater savings facility" means a facility that meets the
13 requirements of section 45-812.01 in an active management area or an
14 irrigation non-expansion area at which groundwater withdrawals are
15 eliminated or reduced by recipients who use in lieu water on a
16 gallon-for-gallon substitute basis for groundwater that otherwise would
17 have been pumped from within that active management area or irrigation
18 non-expansion area.

19 10. "In lieu water" means water that is delivered by a storer to a
20 groundwater savings facility pursuant to permits issued under this chapter
21 and that is used in an active management area or an irrigation
22 non-expansion area by the recipient on a gallon-for-gallon substitute
23 basis for groundwater that otherwise would have been pumped from within
24 that active management area or irrigation non-expansion area.

25 11. "Long-term storage account" means an account established
26 pursuant to section 45-852.01.

27 12. "Long-term storage credit" means stored water that meets the
28 requirements of section 45-852.01 and that has been credited to a
29 long-term storage account.

30 13. "Managed underground storage facility" means a facility that
31 meets the requirements of section 45-811.01 and that is designed and
32 managed to utilize the natural channel of a stream to store water
33 underground pursuant to permits issued under this chapter through
34 artificial and controlled releases of water other than surface water
35 naturally present in the stream. Surface water flowing in its natural
36 channel is not a managed underground storage facility.

37 14. "Master replenishment account" means an account established
38 pursuant to section 45-858.01 for a groundwater replenishment district.

39 15. "Recipient" means a person who receives in lieu water for use at
40 a groundwater savings facility.

41 16. "Recoverable amount" means the amount of water, as determined by
42 the director, that will reach the aquifer through water storage.

1 17. "Replenishment" means the storage of water or use of long-term
2 storage credits by a groundwater replenishment district to fulfill its
3 duties under title 48, chapter 27, article 3, by a multi-county water
4 conservation district to fulfill its duties under title 48, chapter 22,
5 article 4 or by an active management area water district to fulfill its
6 duties under title 48, chapter 28, article 7.

7 18. "Reserve target" has the same meaning prescribed in section
8 48-3701.

9 19. "Storage facility" means a groundwater savings facility or an
10 underground storage facility.

11 20. "Stored water" means water that has been stored or saved
12 underground pursuant to a storage permit issued under this chapter.

13 21. "Storer" means the holder of a water storage permit issued
14 pursuant to section 45-831.01 or a person to whom a water storage permit
15 has been conveyed pursuant to section 45-831.01, subsection F.

16 22. "Underground storage facility" means a constructed underground
17 storage facility or a managed underground storage facility.

18 23. "Water that cannot reasonably be used directly" means water that
19 the storer cannot reasonably put to a direct use during the calendar year,
20 including:

21 (a) Except as provided in subdivision (b) or except for an
22 agricultural improvement district as provided in subdivision (d), if the
23 storer is a municipal provider, the amount of central Arizona project
24 water that exceeds the amount of mined groundwater withdrawn during the
25 calendar year by the storer in the active management area in which the
26 storer's service area is located. If the storer withdrew mined
27 groundwater during a calendar year in which the storer stored central
28 Arizona project water underground pursuant to the storage permit, the
29 amount of central Arizona project water stored underground during that
30 year equal to the amount of mined groundwater withdrawn from the active
31 management area in which the storer's service area is located shall not be
32 credited to the storer's long-term storage account but may be considered
33 as being available for recovery by the storer on an annual basis under
34 section 45-851.01. In calculating the amount of mined groundwater
35 withdrawn by the storer from the active management area, the director, at
36 the request of the storer, shall exclude any groundwater withdrawn,
37 treated and delivered for direct use as part of a remedial action
38 undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the
39 purposes of this subdivision, "mined groundwater" and "municipal provider"
40 have the same meanings prescribed in section 45-561.

41 (b) If the storer is a municipal provider that has been designated
42 as having an assured water supply pursuant to section 45-576, the amount
43 of central Arizona project water that exceeds the amount of deficit
44 groundwater withdrawn during the calendar year by the storer in the active
45 management area in which the storer's service area is located. If the

1 storer withdrew deficit groundwater during a calendar year in which the
2 storer stored central Arizona project water underground pursuant to the
3 storage permit, the amount of the central Arizona project water stored
4 underground during that year equal to the amount of deficit groundwater
5 withdrawn from the active management area in which the storer's service
6 area is located shall not be credited to the storer's long-term storage
7 account but may be considered as being available for recovery by the
8 storer on an annual basis pursuant to section 45-851.01. In calculating
9 the amount of deficit groundwater withdrawn by the storer from the active
10 management area, the director, at the request of the storer, shall exclude
11 any groundwater withdrawn, treated and delivered for direct use as part of
12 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
13 article 5. For the purposes of this subdivision, "municipal provider" has
14 the same meaning prescribed in section 45-561 and "deficit groundwater"
15 means that amount of groundwater withdrawn within an active management
16 area for delivery and use within a service area by a municipal provider in
17 excess of the amount of groundwater that may be withdrawn by the municipal
18 provider consistent with the achievement of the active management area's
19 management goals as prescribed by rules adopted by the director pursuant
20 to section 45-576.

21 (c) Except as provided in subdivision (d), if the storer is not a
22 municipal provider, the amount of central Arizona project water stored in
23 an active management area that exceeds the amount of groundwater withdrawn
24 during the calendar year by the storer in that active management area. If
25 the storer withdrew groundwater in an active management area during a
26 calendar year in which the storer stored central Arizona project water
27 underground in that active management area pursuant to the storage permit,
28 the amount of central Arizona project water stored underground during that
29 year equal to the amount of groundwater withdrawn from the active
30 management area shall not be credited to the storer's long-term storage
31 account but may be considered as being available for recovery by the
32 storer on an annual basis under section 45-851.01. For the purposes of
33 this subdivision, "municipal provider" has the same meaning prescribed in
34 section 45-561. In calculating the amount of groundwater withdrawn by the
35 storer from the active management area, the director, at the request of
36 the storer, shall exclude:

37 (i) The amount of groundwater withdrawn, treated and delivered for
38 direct use as part of a remedial action undertaken pursuant to CERCLA or
39 title 49, chapter 2, article 5.

40 (ii) The amount of groundwater withdrawn by the storer during the
41 year for mineral extraction and metallurgical processing and delivered
42 during that year for direct use to an irrigation district that is
43 established pursuant to title 48, chapter 19 and that is located in the
44 same active management area from which the amount of groundwater was
45 withdrawn to the extent that the irrigation district or its customers

1 demonstrate a reduction in the amount of groundwater that they otherwise
2 would have withdrawn during that year within the irrigation district.

3 (iii) The amount of groundwater withdrawn by the storer during the
4 year for mineral extraction or metallurgical processing if the storer was
5 engaged in mineral extraction and metallurgical processing within an
6 initial active management area on or before January 1, 2011.

7 (d) The amount of central Arizona project water stored in an active
8 management area in any year after 1994 by an agricultural improvement
9 district established pursuant to title 48, chapter 17 for use at those
10 portions of electrical generating facilities that are constructed or
11 expanded after June 12, 1980, subject to both of the following:

12 (i) If groundwater was used during a year in an active management
13 area at those portions of the electrical generating facilities that were
14 owned and operated by the agricultural improvement district and that were
15 constructed or expanded after June 12, 1980, the amount of the central
16 Arizona project water stored during that year equal to the amount of the
17 groundwater withdrawn during the year for use at those portions of the
18 facilities that were owned and operated by the agricultural improvement
19 district and that were constructed or expanded after June 12, 1980 shall
20 not be credited to the agricultural improvement district's long-term
21 storage account but may be considered as being available for recovery by
22 the agricultural improvement district on an annual basis under section
23 45-851.01.

24 (ii) Long-term storage credits accrued as a result of the storage
25 of the central Arizona project water may be recovered within the active
26 management area by the agricultural improvement district only for the
27 purpose of providing central Arizona project water to electrical
28 generating facilities that were owned and operated by the agricultural
29 improvement district and only pursuant to any water requirement included
30 in a facility's certificate of environmental compatibility. Subject to
31 section 45-854.01, the long-term storage credits may be assigned by the
32 agricultural improvement district only to the owner of an electrical
33 generating facility for use pursuant to any water requirement included in
34 that facility's certificate of environmental compatibility.

35 (e) Surface water made available by dams constructed or modified
36 after August 13, 1986.

37 (f) Effluent.

38 (g) If the storage facility is in an active management area, water
39 from outside the active management area that would not have reached the
40 active management area without the efforts of the storer.

41 (h) If the storage facility is outside of an active management
42 area, water from outside the groundwater basin in which the storage
43 facility is located that would not have reached the groundwater basin
44 without the efforts of the storer.

1 (i) Water that is delivered through the central Arizona project and
2 that is acquired by the Arizona water banking authority.

3 24. "Water storage" means adding water to an aquifer or saving water
4 in an aquifer pursuant to permits issued under this chapter.

5 25. "Water storage permit" means a permit issued pursuant to section
6 45-831.01 to store water at a storage facility.

7 Sec. 6. Section 45-802.01, Arizona Revised Statutes, as amended by
8 Laws 2019, chapter 1, section 10, is amended to read:

9 45-802.01. Definitions

10 Unless the context otherwise requires, the terms defined in section
11 45-402 have the same meanings in this chapter and:

12 1. "Aquifer" means a geologic formation that contains sufficient
13 saturated material to be capable of storing water and transmitting water
14 in usable quantities to a well.

15 2. "Area of impact" means, ~~as projected on the land surface, the~~
16 ~~area where the stored water has migrated or is located~~ ANY OF THE
17 FOLLOWING:

18 (a) THE AREA WITHIN ONE MILE OF AN EXISTING OR PROPOSED UNDERGROUND
19 STORAGE FACILITY WHERE THE WATER TO BE RECOVERED IS OR WILL BE STORED.

20 (b) THE AREA WITHIN ONE MILE OF THE DISTRICT BOUNDARIES OR WITHIN
21 THE DISTRICT BOUNDARIES OF AN IRRIGATION DISTRICT THAT HAS A PERMIT FOR A
22 GROUNDWATER SAVINGS FACILITY AND WHERE THE WATER TO BE RECOVERED IS OR
23 WILL BE STORED.

24 (c) ANY AREA THAT IS NOT DESCRIBED IN SUBDIVISION (a) OR (b) OF
25 THIS PARAGRAPH AND THAT HAS BEEN SHOWN TO HAVE BEEN POSITIVELY IMPACTED BY
26 THE STORAGE OF THE WATER TO BE RECOVERED AS DEMONSTRATED BY A HYDROLOGIC
27 MODEL APPROVED BY THE DIRECTOR.

28 3. "CERCLA" means the comprehensive environmental response,
29 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
30 2767; 42 United States Code sections 9601 through 9657), commonly known as
31 "superfund".

32 4. "Constructed underground storage facility" means a facility that
33 meets the requirements of section 45-811.01 and that is designed and
34 constructed to store water underground pursuant to permits issued under
35 this chapter.

36 5. "District" means a groundwater replenishment district
37 established under title 48, chapter 27.

38 6. "District member" means a member of the groundwater
39 replenishment district as provided by title 48, chapter 27.

40 7. "Electrical district" means a corporate body established
41 pursuant to title 48, chapter 12.

42 8. "Existing effluent managed underground storage facility" means a
43 managed underground storage facility that meets one of the following
44 conditions:

1 (a) The facility is operated pursuant to a storage facility permit
2 that the director issued before January 1, 2019 and that authorizes the
3 storage of effluent at the facility.

4 (b) The facility is operated pursuant to a renewed or modified
5 storage facility permit that the director issued after January 1, 2019 if
6 the facility qualified as an existing effluent managed underground storage
7 facility under subdivision (a), (c) or (d) of this paragraph at any time
8 before the renewal or modification.

9 (c) The facility is operated pursuant to a permit that the director
10 issued after January 1, 2019 and that authorizes the storage of effluent
11 at a location where the permit holder was authorized to store effluent
12 pursuant to a storage facility permit that the director issued before
13 January 1, 2019.

14 (d) The facility is operated pursuant to a permit that the director
15 issued after January 1, 2019 and that authorizes the storage of effluent
16 at the facility, and the application to operate the facility was on file
17 with the director as of January 1, 2019.

18 9. "Groundwater savings facility" means a facility that meets the
19 requirements of section 45-812.01 in an active management area or an
20 irrigation non-expansion area at which groundwater withdrawals are
21 eliminated or reduced by recipients who use in lieu water on a
22 gallon-for-gallon substitute basis for groundwater that otherwise would
23 have been pumped from within that active management area or irrigation
24 non-expansion area.

25 10. "In lieu water" means water that is delivered by a storer to a
26 groundwater savings facility pursuant to permits issued under this chapter
27 and that is used in an active management area or an irrigation
28 non-expansion area by the recipient on a gallon-for-gallon substitute
29 basis for groundwater that otherwise would have been pumped from within
30 that active management area or irrigation non-expansion area.

31 11. "Long-term storage account" means an account established
32 pursuant to section 45-852.01.

33 12. "Long-term storage credit" means stored water that meets the
34 requirements of section 45-852.01 and that has been credited to a
35 long-term storage account.

36 13. "Managed underground storage facility" means a facility that
37 meets the requirements of section 45-811.01 and that is designed and
38 managed to utilize the natural channel of a stream to store water
39 underground pursuant to permits issued under this chapter through
40 artificial and controlled releases of water other than surface water
41 naturally present in the stream. Surface water flowing in its natural
42 channel is not a managed underground storage facility.

1 14. "Master replenishment account" means an account established
2 pursuant to section 45-858.01 for a groundwater replenishment district.

3 15. "Recipient" means a person who receives in lieu water for use at
4 a groundwater savings facility.

5 16. "Recoverable amount" means the amount of water, as determined by
6 the director, that will reach the aquifer through water storage.

7 17. "Replenishment" means the storage of water or use of long-term
8 storage credits by a groundwater replenishment district to fulfill its
9 duties under title 48, chapter 27, article 3, by a multi-county water
10 conservation district to fulfill its duties under title 48, chapter 22,
11 article 4 or by an active management area water district to fulfill its
12 duties under title 48, chapter 28, article 7.

13 18. "Reserve target" has the same meaning prescribed in section
14 48-3701.

15 19. "Storage facility" means a groundwater savings facility or an
16 underground storage facility.

17 20. "Stored water" means water that has been stored or saved
18 underground pursuant to a storage permit issued under this chapter.

19 21. "Storer" means the holder of a water storage permit issued
20 pursuant to section 45-831.01 or a person to whom a water storage permit
21 has been conveyed pursuant to section 45-831.01, subsection F.

22 22. "Underground storage facility" means a constructed underground
23 storage facility or a managed underground storage facility.

24 23. "Water that cannot reasonably be used directly" means water that
25 the storer cannot reasonably put to a direct use during the calendar year,
26 including:

27 (a) Except as provided in subdivision (b) or except for an
28 agricultural improvement district as provided in subdivision (d), if the
29 storer is a municipal provider, the amount of central Arizona project
30 water that exceeds the amount of mined groundwater withdrawn during the
31 calendar year by the storer in the active management area in which the
32 storer's service area is located. If the storer withdrew mined
33 groundwater during a calendar year in which the storer stored central
34 Arizona project water underground pursuant to the storage permit, the
35 amount of central Arizona project water stored underground during that
36 year equal to the amount of mined groundwater withdrawn from the active
37 management area in which the storer's service area is located shall not be
38 credited to the storer's long-term storage account but may be considered
39 as being available for recovery by the storer on an annual basis under
40 section 45-851.01. In calculating the amount of mined groundwater
41 withdrawn by the storer from the active management area, the director, at
42 the request of the storer, shall exclude any groundwater withdrawn,
43 treated and delivered for direct use as part of a remedial action
44 undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the

1 purposes of this subdivision, "mined groundwater" and "municipal provider"
2 have the same meanings prescribed in section 45-561.

3 (b) If the storer is a municipal provider that has been designated
4 as having an assured water supply pursuant to section 45-576, the amount
5 of central Arizona project water that exceeds the amount of deficit
6 groundwater withdrawn during the calendar year by the storer in the active
7 management area in which the storer's service area is located. If the
8 storer withdrew deficit groundwater during a calendar year in which the
9 storer stored central Arizona project water underground pursuant to the
10 storage permit, the amount of the central Arizona project water stored
11 underground during that year equal to the amount of deficit groundwater
12 withdrawn from the active management area in which the storer's service
13 area is located shall not be credited to the storer's long-term storage
14 account but may be considered as being available for recovery by the
15 storer on an annual basis pursuant to section 45-851.01. In calculating
16 the amount of deficit groundwater withdrawn by the storer from the active
17 management area, the director, at the request of the storer, shall exclude
18 any groundwater withdrawn, treated and delivered for direct use as part of
19 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
20 article 5. For the purposes of this subdivision, "municipal provider" has
21 the same meaning prescribed in section 45-561 and "deficit groundwater"
22 means that amount of groundwater withdrawn within an active management
23 area for delivery and use within a service area by a municipal provider in
24 excess of the amount of groundwater that may be withdrawn by the municipal
25 provider consistent with the achievement of the active management area's
26 management goals as prescribed by rules adopted by the director pursuant
27 to section 45-576.

28 (c) Except as provided in subdivision (d), if the storer is not a
29 municipal provider, the amount of central Arizona project water stored in
30 an active management area that exceeds the amount of groundwater withdrawn
31 during the calendar year by the storer in that active management area. If
32 the storer withdrew groundwater in an active management area during a
33 calendar year in which the storer stored central Arizona project water
34 underground in that active management area pursuant to the storage permit,
35 the amount of central Arizona project water stored underground during that
36 year equal to the amount of groundwater withdrawn from the active
37 management area shall not be credited to the storer's long-term storage
38 account but may be considered as being available for recovery by the
39 storer on an annual basis under section 45-851.01. For the purposes of
40 this subdivision, "municipal provider" has the same meaning prescribed in
41 section 45-561. In calculating the amount of groundwater withdrawn by the
42 storer from the active management area, the director, at the request of
43 the storer, shall exclude:

1 (i) The amount of any groundwater withdrawn, treated and delivered
2 for direct use as part of a remedial action undertaken pursuant to CERCLA
3 or title 49, chapter 2, article 5.

4 (ii) The amount of groundwater withdrawn by the storer during the
5 year for mineral extraction or metallurgical processing if the storer was
6 engaged in mineral extraction and metallurgical processing within an
7 initial active management area on or before January 1, 2011.

8 (d) The amount of central Arizona project water stored in an active
9 management area in any year after 1994 by an agricultural improvement
10 district established pursuant to title 48, chapter 17 for use at those
11 portions of electrical generating facilities that are constructed or
12 expanded after June 12, 1980, subject to both of the following:

13 (i) If groundwater was used during a year in an active management
14 area at those portions of the electrical generating facilities that were
15 owned and operated by the agricultural improvement district and that were
16 constructed or expanded after June 12, 1980, the amount of the central
17 Arizona project water stored during that year equal to the amount of the
18 groundwater withdrawn during the year for use at those portions of the
19 facilities that were owned and operated by the agricultural improvement
20 district and that were constructed or expanded after June 12, 1980 shall
21 not be credited to the agricultural improvement district's long-term
22 storage account but may be considered as being available for recovery by
23 the agricultural improvement district on an annual basis under section
24 45-851.01.

25 (ii) Long-term storage credits accrued as a result of the storage
26 of the central Arizona project water may be recovered within the active
27 management area by the agricultural improvement district only for the
28 purpose of providing central Arizona project water to electrical
29 generating facilities that were owned and operated by the agricultural
30 improvement district and only pursuant to any water requirement included
31 in a facility's certificate of environmental compatibility. Subject to
32 section 45-854.01, the long-term storage credits may be assigned by the
33 agricultural improvement district only to the owner of an electrical
34 generating facility for use pursuant to any water requirement included in
35 that facility's certificate of environmental compatibility.

36 (e) Surface water made available by dams constructed or modified
37 after August 13, 1986.

38 (f) Effluent.

39 (g) If the storage facility is in an active management area, water
40 from outside the active management area that would not have reached the
41 active management area without the efforts of the storer.

42 (h) If the storage facility is outside of an active management
43 area, water from outside the groundwater basin in which the storage
44 facility is located that would not have reached the groundwater basin
45 without the efforts of the storer.

1 (i) Water that is delivered through the central Arizona project and
2 that is acquired by the Arizona water banking authority.

3 24. "Water storage" means adding water to an aquifer or saving water
4 in an aquifer pursuant to permits issued under this chapter.

5 25. "Water storage permit" means a permit issued pursuant to section
6 45-831.01 to store water at a storage facility.

7 Sec. 7. Effective date

8 Section 45-802.01, Arizona Revised Statutes, as amended by Laws
9 2019, chapter 1, section 10 and this act, is effective from and after
10 December 31, 2024.